

IN SENATE OF THE UNITED STATES.

JUNE 20, 1836.

Read, and ordered to be printed.

Mr. WEBSTER made the following

REPORT:

The Committee on Finance, who were directed by a resolution of the Senate passed on the 21st of May, 1836, "to inquire into the character, condition, and amount of capital, of the several banking institutions which have been chartered within the last three years, by the Territorial Government of Florida, and to make report to the Senate whether, in their opinion, any legislation on the part of Congress is necessary, in order to disaffirm the establishment of said charters," have had that subject under consideration, and report:

That, in order to obtain full information upon the matters referred to it, the committee directed its chairman to move a resolution in Senate requesting the Secretary of State to transmit to the Senate, so soon as they might be obtained, copies of all acts of the Territorial Legislature of Florida incorporating banks, or other institutions with banking powers.

Sufficient time has not elapsed to enable the Secretary to obtain authenticated copies of these laws; but, inasmuch as the committee has thought it important that the attention of Congress should be drawn to the propriety of adopting some law, in regard to the subject, at the present session, it has obtained, from other quarters, such information as it supposed might be relied on, and it is prepared to submit a bill to the consideration of the Senate.

By the act of the 30th of March, 1832, "for the establishment of a Territorial Government in Florida," it is prescribed that the legislative power shall be vested in the Governor, and in thirteen of the most fit and discreet persons of the Territory, to be called the Legislative Council.

The legislative powers of this council are to extend to "all the rightful subjects of legislation," with certain exceptions enumerated in the law. It is made the duty of the Governor, on or before the first day of December in each year, to report to the President of the United States all the laws made by the Legislative Council, to the end that they may be laid before Congress; and any of those laws which may be disapproved by Congress, shall thenceforth be of no force. There appears nothing in the act of Congress restricting the Legislative Council from granting charters to banks, and other institutions with banking powers.

On the other hand, there is no limitation in point of time, upon the authority of Congress to disapprove and annul the acts of the Legislative Council.

The power of creating such corporations is capable of abuse, and the acts passed in the Territory are so likely, ordinarily, to escape the attention of Congress, unless for some particular reason that attention be invited to them, that the committee are of opinion that no act of a Territorial Legislature incorporating a bank, or other institution with banking privileges, ought to be allowed to have any effect at all until *approved* by Congress; and in the bill which is reported, a provision is inserted, intended to alter the power of all the Territorial Legislatures, in this respect, as to all future cases.

It would appear that charters were granted several years ago, by the Territorial Legislature of Florida, incorporating the Bank of Florida, at Tallahassee, the Bank of Marianna, and the Bank of Magnolia. But it is represented to the committee that these banks have all surrendered their charters, and closed their concerns.

There appear to be two banks at Tallahassee, one called the Central Bank of Florida, the charter of which the committee have not been able to obtain, and all the information they have respecting it, is contained in a statement of its condition, published in April last, which is herewith communicated. The other is called the Union Bank of Florida, and was created by act of the 13th of February, 1833. It has a capital of one million of dollars, with a power of increasing it to three millions, which capital is to be raised by means of a loan, on the faith of the Territory, by the directors of the bank. It has also an unlimited power of establishing branches in the Territory of Florida.

So far as the committee learn, the capital of this bank is at present one million only, which was obtained on bonds, purporting to be guarantied by the Territory, and is said to be all loaned to planters in the Territory.

As this act was passed in February, 1833, it must be presumed to have been known to Congress at the commencement of its session, in December of that year. Two sessions, therefore, have elapsed since the period when Congress, in the ordinary course of things, would become acquainted with its provisions. And although these provisions are, in the judgment of the committee, highly objectionable, and such as no charter ought to have embraced, yet, inasmuch as Congress has forborne, for so long a period, to exercise its undoubted right of disapproving the charter, it may be doubtful whether such exercise of its authority would be now expedient. On the 19th of January, 1831, a bill passed the Legislative Council to incorporate a bank by the name and style of the Bank of Pensacola. This bill was rejected by the Governor, but was afterwards passed by the requisite majority of the members of the Legislative Council, and so became a law. Several acts, supplementary to, and amendatory of, the forementioned law, were subsequently passed, and are herewith communicated.

This bank was originally a bank with a capital of two hundred thousand dollars; and the committee perceive nothing unusual or extraordinary in the powers which are granted to it. This capital does not appear to have been immediately subscribed or paid in, nor are the committee informed when the bank began its operations.

On the 13th of February, 1835, an act passed the Territorial Legislature, entitled "An act to increase the capital of the Bank of Pensacola, and to amend the laws incorporating said bank, and for other purposes."

By this act the bank is authorized to increase its capital to two millions five hundred thousand dollars, with a power to establish branches at pleasure, in West Florida, and one branch in Marianna. It is also authorized to buy shares, to any amount the directors see fit, in the Alabama, Florida, and Georgia Railroad Company; and in order to enable the bank to make this purchase, the bank is authorized to issue bonds to the amount of five hundred thousand dollars, which bonds shall be guaranteed by the Territory, and the form of guaranty is prescribed; and as the bank may have occasion for further funds, in order to pay instalments on its railroad stock, it is to issue other bonds, to be guaranteed in like manner by the Territory. This act, it would appear, was laid before Congress on the 3d day of March last, being the last day of the session. A copy is herewith communicated.

On the 14th of February, 1835, an act passed the Legislative Council, and was approved by the Governor, entitled "An act to incorporate the Southern Life Insurance and Trust Company." This company is to be *located* at St. Augustine. Some of its powers are thus described:

"Sec. 2. The said company shall have power, 1st, to make insurance on lives; 2d, to grant and purchase annuities; 3d, to make any other contingent contracts involving the interest of money and the duration of life; 4th, to receive moneys in trust and to accumulate the same, at such rates of interest as may be obtained, or agreed on, not exceeding at the rate of eight per cent. per annum, or to allow such interest thereon, as may be agreed on; 5th, to accept and execute all such trusts, of every description, as may be committed to them by any person or persons whatsoever, or may be transferred to them by order of any of the courts of this Territory, or by any court as a court of chancery; 6th, to receive and hold lands under grants, with such general or special trusts or covenants, so far as the same may be taken in payment of their debts, or in security of their capital or loans, or debts due them, or purchased upon sales under any law of this Territory, as may be necessary to protect the rights of the said company, and the same again to sell, convey, and dispose of; 7th, to buy, discount, and sell drafts, promissory notes, and bills of exchange; 8th, to establish and locate branches for carrying on their business."

The capital stock is two millions, and may be increased to four millions of dollars; and the whole capital is to be loaned on bonds or notes, secured on real and personal estate in the Territory of Florida. The powers of the company are to be exercised by a board of trustees, to consist of ten persons, and so classed as that the term of service of two of them shall expire at the end of each successive period of two years, being, in effect, an election of ten years, but with a power in the court of appeals, in the Territory, to remove a trustee for misbehaviour.

The company has power to issue bills or notes, *other than drafts or bills of exchange*, to the amount of capital actually paid in, and "to enable the said company to make loans and discounts beyond the amount of their capital, to be paid in by the stockholders as aforesaid, they may issue certificates of one thousand dollars each, bearing not more than six

per cent. interest, redeemable within the range and limit of the charter, at such times as the Governor and the company may agree on, and present the same to the Governor or acting Governor of this Territory, whose duty it shall be to endorse thereon, 'Guarantied by the Territory of Florida,' and sign his name and title of office thereto, and return the same to the said company; and the faith of the said Territory is hereby pledged as security for said company, for the faithful payment of such certificates, according to the tenor and effect of the same. But no greater amount of certificates shall be, at any time, endorsed, than may be equal to the debts placed under mortgage to the company at the time of making application, to be secured after the mode, and in conformity to the manner pointed out and directed in the sixth section of the act."

The two last sections of the act are as follow :

"Sec. 25. This law shall remain unalterable, without the consent of the trustees of the said company, until the expiration of fifty years from its passage; nor shall it, at any time hereafter, be so altered as to prevent the execution by the company of any subsisting contract."

"Sec. 26. This act shall be taken and received in all courts, and by all judges, magistrates, and all other public officers, as a public act, and shall receive, on all occasions, a favorable construction; and all printed copies of the same, which shall be printed by, or under the authority of, the Legislative Council, shall be admitted as good evidence thereof, without any other proof whatever."

As this act was passed on the 14th of February last, it could not have reached Washington in season for its consideration by Congress, at any time during the last session.

The committee hardly deem it necessary to remark, at any great length, on the extraordinary nature and provisions of the act for increasing the capital of the Bank of Pensacola, and this act incorporating the Southern Insurance Company. The acts themselves are now brought to the attention of the Senate, and their nature and provisions are clearly seen. But the committee are of opinion that both these Territorial laws were highly imprudent, that they ought not to have been passed, and they submit to the Senate whether they ought now to be suffered to be carried into effect, without proper amendments, such as shall reduce the amount of their capital, especially that part which is contingent, abridge and reform the grants of extraordinary powers, and take away the guaranty of the Territory from their bonds and contracts; or, at least, from all bonds and contracts which have not been issued and sold, and passed into the hands of *bona fide* holders, before the day of the date of this report.

But it is not for Congress to make these amendments, though it should deem them necessary. The power of Congress is a simple power of disapproving the whole acts; and if nothing had been done under them, the committee would not hesitate to recommend such disapproval. Nor do they now mean to say that such disapproval would be unjust; because Congress has had no earlier opportunity to examine these laws, and to act upon the question of annulling them; and it is hardly to be presumed that prudent men have ventured far, under such a charter, granted by a Territorial Legislature, whose acts were well known to be subject to the revision of Congress.

But it is competent for the Territorial Legislature, with the consent of the corporations, to amend the charters in any manner deemed proper; and the resolution which the committee report to the Senate, in relation to these two acts, will show that, in the judgment of the committee, it is expedient to give the corporators an option and an opportunity to obtain proper amendments to their charters, if they see fit.

In the session of 1836, the Territorial Legislature appear to have passed the following acts :

An act to incorporate the Bank of St. Joseph's, capital one million of dollars, and may be extended to two.

An act to incorporate a Florida Insurance and Banking Company, capital one million of dollars, and may be increased to two.

An act to incorporate the St. Joseph's Insurance Company, with a capital of one million of dollars, and may be increased to two millions.

The committee entertain no doubt that these three last-mentioned acts ought to be altogether disapproved and annulled.

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